

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

TYRELL MONTREL CANE,

Plaintiff,

v.

JEFFERSON COUNTY CORRECTIONAL
FACILITY,

Defendant.

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CIVIL ACTION NO. 1:20-CV-00095-MJT

JUDGE MICHAEL TRUNCALE

**ORDER ADOPTING THE MAGISTRATE JUDGE’S
REPORT AND RECOMMENDATION**

Plaintiff Tyrell Montrel Cane, a prisoner confined at the Jefferson County Correctional Facility, proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983.

The Court ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The magistrate judge recommends dismissing this action without prejudice pursuant to Federal Rule of Civil Procedure 41(b).

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record and the pleadings. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties. Proper notice was given to the plaintiff at the Jefferson County Correctional Facility, his last known address. See FED. R. CIV. P. 5(b)(2)(c). However, the plaintiff’s copy of the Report and Recommendation was returned to the Court with a notation that the plaintiff has been released

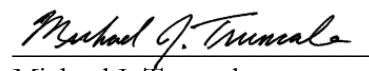
from custody. The plaintiff has failed to notify the Court of his change of address in contravention of Local Rule CV-11(d).

As United States Magistrate Judge Giblin noted, “[a] district court *sua sponte* may dismiss an action for failure to prosecute or to comply with any court order.” *Larson v. Scott*, 157 F.3d 1030, 1031 (5th Cir. 1998) (citing FED. R. CIV. P. 41(b)); *see also McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988). In *Larson*, the Fifth Circuit held that the district court acted well within the bounds of its discretion when the court dismissed an action for want of prosecution, after the plaintiff was given months to comply with a court order and repeated warnings by the court. *Larson*, 157 F.3d at 1032. Likewise, Mr. Cane was given nearly two months to submit his inmate trust account. Moreover, Magistrate Judge Giblin cautioned Mr. Cane that his “[f]ailure to comply with [the] order may result in this case being dismissed.” (document no. 3). Therefore, the Court finds that this case should be dismissed in accordance with Federal Rule of Civil Procedure 41(b).

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge (document no. 5) is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge’s recommendation.

SIGNED this 26th day of June, 2020.



Michael J. Truncala
United States District Judge